

variety of alternatives to achieve Commission objectives.

Paperwork Reduction

The proposals suggested impose filing requirements on entities already required to file Part 68 and tariff filings.

Comment Dates

Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415 and 1.419, interested parties may file comments on or before **January 14, 1994**, and reply comments on or before **February 10, 1994**. To file formally in this proceeding, interested parties must file an original and four copies of all comments, reply comments, and supporting documents with the reference number "**CC Docket 93-292**" on each document. If interested parties want each Commissioner to receive a personal copy of comments, interested parties must file an original plus nine copies. Interested parties should send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Room 239, Federal Communications Commission, 1919 M Street, N.W., Washington, DC. Copies of comments and reply comments are available through the Commission's duplicating contractor: International Transcription Service, Inc. (ITS, Inc), 2100 M Street, N.W., Suite 140, Washington, DC 20037, (202) 857-3800.

V. ORDERING CLAUSES

44. Accordingly, IT IS ORDERED, pursuant to 47 U.S.C. Section 154(i) of the Communications Act of 1934, as amended, 47 U.S.C. Section 154(i), that NOTICE IS HEREBY GIVEN, of the proposed regulatory action described above and in Appendix E and that COMMENT IS SOUGHT on these proposals.

45. The Secretary shall serve a copy of this Notice of Proposed Rulemaking on the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION



William F. Caton
Acting Secretary

APPENDIX A

LIST OF COMMENTERS **File No. 93-TOLL FRAUD-01**

800-Software*
ADT Security Systems*
Advanced Environmental Technology Corporation*
AgriBank*
Alexander & Alexander*
American Hospital Association
American General Life Insurance Company*
American Hotel & Motel Association
American Petroleum Institute
American Re-Insurance Company*
American Service Life Insurance Company*
American States Insurance Companies*
American Tobacco Company, The*
Ameritech Operating Companies, The
Angelica*
Arthur Andersen & Co, SC*
Associates Bancorp, Inc.*
Ball Corporation*
BCS Financial Corporation*
Beaumont/William Beaumont Hospital*
Bell Atlantic Network Services, Inc.
Bell & Howell*
Bellcore/Bell Communications Research
Blue Shield of California*
BMD Incorporated*
Bowling Green State University*
Brown Brothers Harriman & Co.*
Brunschwig & Fils, Inc.*
Burns Clinic*
Call Interactive*
Cape Cod Five Cents Savings Bank*
CareerTrack*
Carolina Steel*
Carpenter Technology Corporation*
Cellular One*
Certified Vacations*
Chandler (U.S.A.), Inc.*
Chattanooga Publishing Company*
Chris Rhoda, Thomas College*
Clark Memorial Hospital*
College of Eastern Utah*
Colonial Insurance Company of California*
Consolidated Communications Public Services
Cooper Crouse-Hinds*

*** Informal Comments**

Copley Hospital*
 Corning Credit Union*
 Corning Incorporated*
 Courtaldis Aerospace*
 Craig Hospital*
 Crocker Fels*
 Dairy Queen*
 Dearborn Financial Publishing, Inc.*
 Delta Faucet Company*
 Department of Labor, State of New Jersey*
 Desert Mutual Benefit Administrators*
 Dillard Paper Company*
 Directel, Inc.
 Diversey Corp.*
 Drackett Company, The*
 Dresser-Rand*
 Dunkin Donuts*
 Dupont*
 Dutko & Associates
 Electro Rent Corporation*
 Employers Benefit Association*
 Employers Health Insurance/Lincoln National Corporation*
 Energy Management Associates*
 Energy North*
 Entenmann's, Inc.*
 Ernst & Young*
 Farm Bureau*
 First National Bank*
 FOG*
 Frisbie Memorial Hospital*
 Froedtert Memorial Lutheran Hospital*
 Fulton State Hospital*
 GE Lighting/Worldwide Customer Service Center*
 Gemini/Gemini Consulting Company*
 Grolier, Incorporated*
 Group Health Cooperative*
 Heinz U.S.A.*
 Holyoke Mutual Insurance Company in Salem*
 Home Depot, The*
 Hughes, Inc.*
 Huls America Inc.*
 ICF Information Technology, Inc.
 Illinois Masonic Medical Center*
 IMR Capital Corporation
 Indiana University*
 Intellicall, Inc.
 Invesco Funds Group Inc.*
 IVAC Corporation*
 Joint Township District Memorial Hospital

* Informal Comments

Jostens*
 Laramie County Personnel*
 Law School Admission Services*
 LEGENT Corporation*
 Liddell, Sapp, Zivley, Hill & LaBoon, L.L.P.
 Martin Memorial Medical Center*
 Mastercard International*
 Matsushita Electric Corporation of America*
 MCI Telecommunications
 Media General, Inc.*
 Mercy Healthcare*
 Mercy Healthplan*
 Merrimack College*
 Metro-North Commuter Railroad/Metropolitan Transportation Authority
 Metropolitan Federal Bank*
 Metropolitan Pier and Exposition Authority*
 MHG Memorial Hospital*
 Middlesex Community College*
 Milbank, Tweed, Hadley & McCloy*
 Minnesota Mutual Life*
 Moore Research Center*
 Morgan Stanley * Co., Inc.*
 Motorola Communications and Electronics Inc.*
 National American Life*
 National Grange Mutual Insurance Company*
 National System 75/DEFINITY and/or the DEFINITY/85 Users Groups
 National Wildlife Federation*
 NCR Corporation*
 North American Telecommunications Association
 Northrup King Co.*
 Norwest Banks*
 Oakwood Homes Corporation*
 OBICI Hospital*
 Ohio Motorists Association*
 Olin Corporation*
 Organization for Economic Cooperation and Development
 O'Sullivan Corporation*
 Pacific Service Employees Association and Credit Union*
 Pacific Telesis Group-Washington
 Payco American Corporation*
 Pier 1 Imports*
 Pioneer Hi-Bred International, Inc.*
 Prince*
 Proctor & Gamble*
 Provo, The City of Provo, Utah - Division of Facility Services*
 Prudential, The*
 Qualicomm Incorporated*
 Ralston Purina Company*
 Rhode Island School of Design*
 Richardson Electronics, Ltd.*

* Informal Comments

Rudnick & Wolfe*
 Ryerson*
 Saint John's University*
 Schneider National*
 Science Applications International Corporation*
 SCRA/Trident Research Center*
 Scudder, Stevens & Clark, Inc.*
 Sedgwick James*
 Sola Optical USA, Inc.*
 Sony Music Entertainment Inc.*
 Southwest Missouri State University*
 St. Lukes Midland Regional Medical Center*
 St. Lukes/Roosevelt Hospital Center
 State Farm Insurance Companies*
 State of Washington, Office of the Administrator for the Courts*
 Stinson, Mag & Fizzell*
 Stonehill College*
 Stormont-Vail Regional Medical Center*
 Switchcraft, A Raytheon Company*
 Teepak*
 Telesector Resources Group/NYNEX Telephone Companies
 Texas Farm Bureau*
 Thermo Electron*
 TRIAD Chemical*
 Union Camp*
 United States Leasing International, Inc.*
 United Way of Massachusetts Bay*
 University of Kansas, The *
 University of Oklahoma, The*
 US West, Inc.
 Utilities Telecommunications Council
 VSA, Inc.*
 Wahlco Engineered Products, Inc.*
 Walgreens/Walgreen Co.
 Washington Education Association*
 Weichert Realtors*
 Wellman, Inc.*
 West Publishing Company*
 Westvaco/Envelope Division*
 Winnebago Industries*
 W.L. Gore & Associates, Inc.*
 Wm. C. Brown Communications, Inc.*

***Informal Comments**

APPENDIX B

En Banc Hearing
October 9, 1992

Panel No. 1: PBX and Other CPE-Based Fraud

- A. PBX/CPE Owners:
 - 1. Leucadia National Corporation - Thomas E. Mara and Geoffrey Williams
 - 2. Agway, Inc./International Communications Association - Lawrence J. Gessini
- B. Law Enforcement Expert: Detective Robert Synder, Columbus, Ohio Police Department
- C. Equipment/Software Manufacturer on Vulnerabilities and Solutions: Northern Telecom - John Losier
- D. New Anti-Fraud Services: LDDS Communications, Inc. - Don Chessher

Panel No. 2: Network-Based Toll Fraud, Responsibility, and Liability Questions

- A. Hacker Expert: William J. Cook, Esq.
- B. Fraud Migration in the Network and Solutions: Toll Fraud Prevention Committee of the Exchange Carriers Standards Association - Mary Chacanas (Bell Atlantic) and Bill Sushon (AT&T)
- C. Payphone Manufacturer on Equipment-based Solutions: Intellicall, Inc. - B. Reid Presson
- D. LIDB and Blocking/Screening Services: Bellcore - Jim Frankowski

Panel No. 3: Emerging Technical, Law Enforcement, and Business Solutions to Domestic and International Toll Fraud

- A. New Anti-Fraud Products: Votan Div./MOSCOM Corp. - Dr. Steven Gill
- B. Law Enforcement Expert on Detection and Prevention of Fraud: U.S. Secret Service - Robert H. Rasor
- C. International Representative: Stentor Telecom Policy Inc. (Canada) - Bernie Galarneau
- D. Negotiation of International Fraud Disputes: Stuart N. Brotman
- E. Contractual and Insurance Protection:
 - 1. Sprint - Robert F. Fox
 - 2. MCI - Edward J. O'Malley
 - 3. AT&T - Peter Coulter
 - 4. Travelers Corp. - Frank Scheckton, Jr.

APPENDIX C

LIST OF COMMENTERS Pacific Mutual Proceeding

Aeronautical Radio, Inc. (ARINC) *
Allnet Communications Services (Allnet) **
Ameritech Operating Companies (Ameritech) **
AT&T *
AVNET, INC. (AVNET)
Bell Atlantic Telephone Companies (Bell Atlantic) **
Broyhill Furniture Industries, Inc. (Broyhill) **
Chartways Technologies, Inc. (Chartways)
Credit Card Calling Systems, Inc. (CCCS)
Directel, Inc. (Directel)
FMC Corporation (FMC) **
LiTel Telecommunications Corporation (LiTel)
MCI *
Maison Blanche Department Stores (Maison Blanche)
Metro-North Commuter Railroad Company (Metro-North)
MidAmerican Communications Corporation (MidAmerican)
Mitsubishi International Corporation (Mitsubishi)
North American Telecommunications Association (NATA) *
Pacific Mutual **
Panel Concepts, L.P. (Panel) **
Perkin-Elmer Corporation (PE) *
Science Dynamics Corporation (SDC)
SDN Users Association, Inc. (SDN)
Securities Industries Association, et. al. (SIA) *
Southwestern Bell Corporation (Southwestern)
Sprint **
Trailer Train Company (Trailer Train)
U.S. Travel Systems, Inc. (USTS) **
Western Diversified Services (Western) *

* Filed Reply Comments

** Filed Only Reply Comments

APPENDIX D

LIST OF COMMENTERS

File No. 93-TOLL FRAUD-02

The Florida Public Service Commission Petition

American Public Communications Council (APCC)*
American Telephone and Telegraph Company (AT&T)*
Ameritech Operating Companies (Ameritech)
Arizona Payphone Association (Arizona)
Bell Atlantic Telephone Companies (Bell Atlantic)*
BellSouth Telecommunications, Inc. (BellSouth)*
California Payphone Association (California)
Coin Phone Management Company (CPMC)
Florida Pay Telephone Association, Inc. (FloridaPTA)
Georgia Public Communications Association (Georgia)
GTE Service Corporation (GTE)*
IMR Capital Corporation (IMR)*
Independent Payphone Association of New York, Inc. (IPANY)
Indiana Payphone Association (Indiana)
Intellicall, Inc. (Intellicall)*
Interexchange Carrier Industry Committee Toll Fraud Subcommittee (TFS)
Louisiana Payphone Association
Midwest Coin Payphone Association
Mississippi Public Communication Association (Mississippi)
Minnesota Independent Payphone Association (MIPA)
MCI Telecommunications Corporation (MCI)*
National Association of Regulatory Utility Commissioners (NARUC)
New Jersey Payphone Association, Inc. (NJPA)
New York Telephone Company and New England Telephone and Telegraph (NYNEX)*
North Carolina Payphone Association (North Carolina)
South Carolina Division of Information Resource Management (SCDIRM)
Southwestern Bell Telephone Company (SWB)*
Sprint Communications Company L.P. (Sprint)*
United States Telephone Association (USTA)
Utah Payphone Association (Utah)

* Filed Reply Comments

APPENDIX E

Proposed Rules

Part 68 of the Commission's Rules and Regulations (chapter 1 of Title 47 of the Code of Federal Regulations, part 68) is proposed to be amended as follows:

PART 68 - CONNECTION OF TERMINAL EQUIPMENT TO THE TELEPHONE NETWORK

1. The authority citation for Part 68 continues to read as follows:

Authority: Section 4, 5, 303, 48 Stat. 1066, 1068, 1082 as amended; 47 U.S.C. 154, 155, 303.

2. Section 68.200 "Application for equipment registration" is proposed to be amended by adding a new subsection (1):

68.200 Application for equipment registration

(1) A prominent and conspicuous warning accompanying the equipment and included in any instruction manual or other literature accompanying the equipment and on the exterior packaging of the equipment which warns equipment users of the risks of toll fraud associated with the equipment and its specific features. The warning in the instructional manual or literature should discuss the customer's financial exposure and measures available to limit that exposure. In the case of PBX and similar equipment, if default codes are set by the manufacturer, vendor, or carrier, those codes must be fully explained in the instructional manual or literature and the warning required by this section must explain the risks of using the equipment without modifying these default codes.

SEPARATE STATEMENT

OF

COMMISSIONER ANDREW C. BARRETT

RE: Policies and Rules Concerning Toll Fraud, CC Docket No. 93-292, Notice of Proposed Rulemaking (NPRM).

Establishing regulatory policies to ensure effective detection and prevention of telecommunications fraud is a demanding task. This fraud takes many forms and is not amenable to a single or a simple solution. The problem must be attacked on a broad front, and will require concerted, ongoing and multi-faceted efforts by this Commission as well as other government and private entities.

This NPRM ably reflects these realities. It lays out the various types of fraud, and the problems and impediments that are barring effective solutions to the problem. It fashions an overall framework to approach the problem, and considers specific proposals targeted at each type of fraud. In doing so, it recognizes that fraud will migrate to new services and technologies as they develop, and as effective measures to combat existing types of fraud are devised. The Notice reflects the concerns and issues raised in the course of Congressional hearings on toll fraud. It also incorporates the record compiled as a result of the Commission's October, 1992 En Banc Hearing on toll fraud, and considers ideas that have been raised before the Commission in petitions filed by various parties.

I am particularly interested in arguments that incentives to detect and prevent telecommunications fraud are directly related to liability for losses from fraud. That the bottom line is often the most effective motivator is only common sense. The Notice seeks comment on whether carriers should face liability for certain types of fraud depending upon whether they or some other party are in the best position to detect and prevent fraud. If the party or parties best situated to detect and control fraud bear some responsibility for losses, they are likely to implement effective responses to the problem.

We now seem to have a situation where parties are attempting to limit their liability, seeking to impose losses on others. This does not move us toward a solution. I believe tariff provisions that limit carrier liability and do not warn customers of fraud risks may be unreasonable and counterproductive from the standpoint of effective response to fraud. I will examine the record on

these issues with great interest, and urge commentators to devote careful attention to these questions.

This proceeding should mark the implementation of a more comprehensive and unified approach to the problem of telecommunications fraud. I expect The Commission will be able to take concrete and meaningful steps as a result.